HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G.V. SEETHAPATHY

Writ Petition No.12293 of 2006

Between:

"Dhimsa", a society registered under A.P.
Societies Registration Act 2001,
Paderu, Visakhapatnam District,
rep. by its Secretary, K. Krishna Rao & another. … Petitioners

And

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Panchayat Raj Department,
Secretariat, Hyderabad & others. … Respondents

:: O R D E R ::

Counsel for the Petitioners : Sri A.Ramalingeswara Rao

26th June, 2006

Per G.S.Singhvi, C.J.

In this petition filed jointly by DHIMSA, a society registered under the Andhra Pradesh Societies Registration Act, 2001 through Sri K.Krishna Rao, who has described himself as Secretary of DHIMSA, and 'SAKTI', a voluntary social organization through Dr.P. Sivaramakrishna, who has described himself as Director of SAKTI, a prayer has been made for striking down Section 242-D of the Andhra Pradesh Panchayat Raj Act, 1994 on the ground that the same is ultra vires to Article 243M(4)(b) of the Constitution of India and

Section 4 of the Panchayat Raj (Extension to the Scheduled Areas) Act, 1996. The petitioners have further prayed that the respondents be restrained from holding election of Zilla Parishad Territorial Constituencies and Mandal Parishad Territorial Constituencies in the Scheduled Areas of the State of Andhra Pradesh.

On the last date of hearing i.e., 22-6-2006, the Court had directed the petitioners to furnish list of their members and also file an additional affidavit showing the number of members who are prospective voters in the forthcoming elections to Gram Panchayats.

In purported compliance of the aforementioned direction, an application has been filed on behalf of the petitioners (WPMP.No.15896 of 2006) for placing on record additional affidavit of Dr. P.Sivaramakrishna along with documents marked Exs.P.7 to P.14.

We have gone through the averments contained in additional affidavit dated 23-6-2006 of Dr.P.Sivaramakrishna and documents annexed with it. Ex.P.9 is a copy of the Memorandum of Association of DHIMSA, Paderu. On the fourth page of memorandum of association, a list of nine persons has been given. A reading of that list shows that

Sri G.Simhachalam representing Girijana Yuva Chytanya Samithi, Kujjeli village, Addumanda (P), Paderu, is acting as President and Sri K.Krishna Rao belonging to Jeevam, Near MRO office colony, G.Madugula, as Executive Member. The rules and regulations annexed with the memorandum of association provide for description of the society as DHIMSA Welfare Society. Rule 3 relates to area of its operation, which are tribal areas of Visakhapatnam District. A provision has also been made for extending the activities of the society to all Districts of

Andhra Pradesh and other parts of the country. Rule 4 deals with the

funds. Rule 5 declares that general body and board of executive members shall carry out the programme of DHIMSA Welfare Society. In terms of Rule 9, management of the society vests in executive members. Rule 7 deals with membership. Rule 8 relates to voluntary organisations and associate membership. Rule 9 relates to subscription for membership categories. Rule 14 deals with amendment of rules. Rule 15 enumerates the duties of office bearers. Rules 10, 11, 12 and 13 relate to quorum, extraordinary meetings, organisation set-up etc. Ex.P.12 is the Memorandum of Association of petitioner No.2, SAKTI. The only provision which can have some bearing on the subject matter of this petition is contained in the provisions under the title "litigation". It lays down that any litigation pertaining to the organisation should be handled by chief executive.

After going through the Memorandum of Association of the two petitioners, we enquired from Sri A.Ramalingeswara Rao, Advocate appearing on their behalf, as to when Sri K.Krishna Rao was appointed as Secretary of petitioner No.2 and when Dr. P.Sivaramakrishna was appointed as its Director and who authorised them to file writ petition on behalf of the societies. To this, the learned counsel could not give any reply.

In our opinion, in the absence of authorisation either under the relevant rules or bye-laws or by a specific resolution passed by the competent body of either of these bodies, Sri K.Krishna Rao and Dr.P.Sivaramakrishna do not have locus to institute petition on behalf of the two bodies and we are not inclined to entertain the writ petition filed by them in the name of the two societies merely because the constitutionality and vires of Section 242-D of the Andhra Pradesh Panchayat Raj Act has been challenged.

We are further of the view that the petitioners' grievance

against holding of election to Zilla Parishad Territorial Constituencies and Mandal Parishad Territorial Constituencies in the Scheduled Areas of Andhra Pradesh cannot be entertained at the behest of the petitioners because it has not been shown that any of the members of the bodies affiliated to the two organisations is a prospective voter in the forthcoming elections and the rights of such persons will be adversely affected if the elections are held in the Scheduled Areas of the State.

For the reasons stated above, the writ petition is dismissed.

G.S.SINGHVI, C.J.

26th June, 2006

G.V.SEETHAPATHY, J.

ARS/svs